

MINUTE ITEM

18. (AMENDMENTS TO TITLE 2, ADMINISTRATIVE CODE - W. O. 2705.)

Following presentation of Calendar Item 18 attached, comments were invited from those present, and the following appearances were made:

Opposed to adoption of new Section 1913 - Joint Bidding:

Marcus Mattson of Lawler, Felix & Hall, appearing on behalf of the
Standard Oil Company of California

James G. Leovy, of the Western Gulf Oil Company

William G. Gardner, of the Humble Oil & Refining Company

In favor of adopting new Section 1913 - Joint Bidding:

Glenn R. Watson, representing Edwin W. Pauley & Associates
State Senator Richard Richards

Opposed to adoption of new Section 1914 - Forfeiture:

State Senator Richard Richards

At the request of Mr. Kirkwood, upon direction of the Chairman, and with the approval of Senator Richards, an informal opinion given to Senator Richards by the office of the Attorney General on the application of proposed regulations 1913 and 1914 is to be made a part of the record, and a copy is attached hereto as Exhibit "B".

PURSUANT TO THE AUTHORITY IN SECTION 6108 OF THE PUBLIC RESOURCES CODE AND AFTER PROCEEDINGS IN ACCORDANCE WITH THE PROVISIONS OF SECTIONS 11420 ET SEQ. OF THE GOVERNMENT CODE, AND UPON MOTION DULY MADE AND UNANIMOUSLY CARRIED, THE FOLLOWING ACTIONS WERE TAKEN WITH RESPECT TO THE RULES AND REGULATIONS OF THE STATE LANDS COMMISSION AS CODIFIED IN THE CALIFORNIA ADMINISTRATIVE CODE, TITLE 2, DIVISION 3, CHAPTER 1:

BE IT RESOLVED THAT:

1. SECTION 2100(b) BE REPEALED, AND THAT THERE BE SUBSTITUTED THEREFOR THE AMENDMENT TO SAID SECTION CONTAINED IN EXHIBIT "A" HEREOF.
2. THE ACTING EXECUTIVE OFFICER IS AUTHORIZED TO INITIATE PROCEDURES UNDER THE GOVERNMENT CODE TO NOTICE RECONSIDERATION OF PROPOSED SECTIONS 1913 AND 1914.

THE COMMISSION APPROVES AN INITIAL REVIEW OF THE SUGGESTED RULE CHANGES BY ALL INTERESTED PARTIES, TO BE PRESENTED IN WRITING ONLY, WITH ALL PRESENTATIONS TO BE CONSIDERED BY THE COMMISSION AT A FUTURE MEETING WHERE OPPORTUNITY WILL BE GIVEN FOR PRESENTATIONS OF FURTHER STATEMENTS, ARGUMENTS OR CONTENTIONS OF INTERESTED PERSONS ORALLY, AS SPECIFIED BY THE APPROPRIATE SECTIONS OF THE GOVERNMENT CODE."

Attachments

Calendar Item 18, including Exhibit "A" (4 pages)

Exhibit "B" (Opinion of the Attorney General) (8 pages)

CALENDAR ITEM

OIL & GAS

18.

(AMENDMENTS TO TITLE 2, ADMINISTRATIVE CODE - W.O. 2705.)

On August 8, 1957 (Minute Item 4, pages 3366-71), the Commission authorized the initiation of procedures for consideration of amendments and additions to the Rules and Regulations. Pursuant to the authorization, the proposed amendments and additions were published, with a specification that statements relative thereto would be received during the 30-day period terminating September 30, 1957. One statement was received, and the proposed modifications have also been reviewed further by the office of the Attorney General. In consideration of this statement and the aforesaid review, it is suggested that the proposed Rules and Regulations be adopted in modified form as follows:

Amendment to Section 2100(b)

No change from published text.

Adoption of New Section 1913 -- Joint Bidding

In every case of joint bidding, the names of all persons, firms, or corporations interested in a particular joint bid shall be specified.

(The purpose of this modification is to conform the regulation to the language of the statute in order that there may be no future question that the meaning of the regulation is different than that of the statute.)

If a general or limited partnership shall join in the making of a joint bid, in addition to the specification of the name of such partnership, the names and addresses of the general partners to be responsible for the performance of the terms of the lease shall accompany the bid.

In the case of a corporation joining in a bid, the names of the President, of the Secretary, or of the officer authorized to enter into contracts for the corporation, the location of the corporation's principal office, and the state of incorporation of the corporation shall accompany the bid.

All persons, firms, or corporations who are to assume a contractual relationship with the State by virtue of a particular joint bid shall be specified in the bid. Others, not participating in management, operation, or control under the joint bid, need not be specified, irrespective of investments or contractual relationship with persons or entities other than the State.

Nothing herein contained shall be construed to permit a prospecting permit or lease, or any interest therein, to be held by any person not qualified under Public Resources Code Sections 6801(a), (b) and (c).

Adoption of New Section 1914 -- Forfeiture

For the purposes of Public Resources Code Section 6802, an interest held in violation of Chapter 3, Part 2, Division 6 of the Public Resources Code, is any interest held by any one or more persons, associations of persons, firms, or corporations other than:

(a) Persons or associations of persons who are citizens of the United States or who have declared their intention of becoming such, or who are citizens of any country, dependency, colony, or province, the laws, customs, and regulations of which permit the grant of similar or like privileges to citizens of the United States.

(b) Any corporation or corporations organized and existing under and by virtue of the laws of the United States or of any state or territory thereof; or any corporation or corporations 90 percent or more of the shares of which are owned by persons eligible to hold a lease or permit under subdivision (a) or (c) of this section; or any corporation or corporations 90 percent or more of the shares of which are owned either by a corporation eligible to hold a lease or permit hereunder, or by any combination of such eligible persons or corporations, or both.

(c) Any alien person entitled thereto by virtue of any treaty between the United States and the nation or country of which the alien person is a citizen or subject.

Any interest under a joint bid held by one or more persons, associations of persons, firms, or corporations, held in violation of Section 6801, Subdivision (d) of the Public Resources Code, is subject to forfeiture under Section 6802 of said code.

IT IS RECOMMENDED THAT THE COMMISSION ADOPT THE FOLLOWING:

PURSUANT TO THE AUTHORITY IN SECTION 6108 OF THE PUBLIC RESOURCES CODE AND AFTER PROCEEDINGS IN ACCORDANCE WITH THE PROVISIONS OF SECTIONS 11420 ET SEQ. OF THE GOVERNMENT CODE, AND UPON MOTION DULY MADE AND UNANIMOUSLY CARRIED, THE FOLLOWING ACTIONS WERE TAKEN WITH RESPECT TO THE RULES AND REGULATIONS OF THE STATE LANDS COMMISSION AS CODIFIED IN THE CALIFORNIA ADMINISTRATIVE CODE, TITLE 2, DIVISION 3, CHAPTER 1:

BE IT RESOLVED THAT:

- (1) SECTION 2100(b) BE REPEALED, AND THAT THERE BE SUBSTITUTED THEREFOR THE AMENDMENT TO SAID SECTION CONTAINED IN EXHIBIT "A" HEREOF;
- (2) NEW SECTIONS ARE HEREBY ADDED TO ARTICLE 1, DIVISION 3, CHAPTER 1, TO BE NUMBERED 1913 AND 1914, TO READ AS SET FORTH IN EXHIBIT "A" HEREOF.

Attachment:
Exhibit "A"

EXHIBIT "A"

Amended Section 2100(b)

(b) The taking of cores and other samples may be conducted on and under tide and submerged lands of the State only if a permit therefor is first obtained from the State Lands Commission.

Added Section 1913 -- Joint Bidding

1913. In every case of joint bidding, the names of all persons, firms, or corporations interested in a particular joint bid shall be specified.

If a general or limited partnership shall join in the making of a joint bid, in addition to the specification of the name of such partnership, the names and addresses of the general partners to be responsible for the performance of the terms of the lease shall accompany the bid.

In the case of a corporation joining in a bid, the names of the President, of the Secretary, or of the officer authorized to enter into contracts for the corporation, the location of the corporation's principal office, and the state of incorporation of the corporation shall accompany the bid.

All persons, firms, or corporations who are to assume a contractual relationship with the State by virtue of a particular joint bid shall be specified in the bid. Others, not participating in management, operation, or control under the joint bid, need not be specified, irrespective of investments or contractual relationship with persons or entities other than the State.

Nothing herein contained shall be construed to permit a prospecting permit or lease, or any interest therein, to be held by any person not qualified under Public Resources Code Sections 6801(a), (b) and (c).

Added Section 1914 -- Forfeiture

1914. For the purposes of Public Resources Code Section 6802, an interest held in violation of Chapter 3, Part 2, Division 6 of the Public Resources Code, is any interest held by any one or more persons, associations of persons, firms, or corporations other than:

(a) Persons or associations of persons who are citizens of the United States or who have declared their intention of becoming such, or who are citizens of any country, dependency, colony, or province, the laws, customs, and regulations of which permit the grant of similar or like privileges to citizens of the United States.

(b) Any corporation or corporations organized and existing under and by virtue of the laws of the United States or of any state or territory thereof; or any corporation or corporations 90 percent or more of the shares of which are owned by persons eligible to hold a lease or permit under subdivision (a) or (c) of this section; or any corporation or corporations 90 percent or more of the shares of which are owned either by a corporation eligible to hold a lease or permit hereunder, or by any combination of such eligible persons or corporations, or both.

EXHIBIT "A" (CONTD.)

Added Section 1914 -- Forfeiture (contd.)

(c) Any alien person entitled thereto by virtue of any treaty between the United States and the nation or country of which the alien person is a citizen or subject.

Any interest under a joint bid held by one or more persons, associations of persons, firms, or corporations, held in violation of Section 6801, Subdivision (d) of the Public Resources Code, is subject to forfeiture under ~~Section 6802 of said code.~~

EXHIBIT "B"

DEPARTMENT OF JUSTICE

OFFICE OF THE ATTORNEY GENERAL
Los Angeles Office
Frank J. Mackin, Assistant Attorney General

September 30, 1957

Honorable Richard Richards
State Senate
Sacramento, California

Dear Senator Richards:

Under date of September 4, 1957 you forwarded to this office a request for an informal "Letter" Opinion on the subject of "Bidding Procedure Under Existing Petroleum Statutes and Regulations". The questions submitted by you will be discussed in the order in which they were presented.

1) In answer to your first inquiry, we do not find any objection to the Legislative Counsel's definition of a joint bid under Subdivision (d) of Section 6801 of the Public Resources Code as "a single bid submitted jointly by more than one individual firm or corporation, or any combination thereof". We might add that a joint bid is one submitted by two or more entities who are not so closely affiliated as to be properly designated a firm. (See Firestone Tire & Rubber Co. v. Webb, 182 S. W. 2d 941, 943, 207 Ark. 820.)

2) We also concur in the Legislative Counsel's conclusion that a bid submitted by a limited partnership is a single bid and not a joint bid within the meaning of Public Resources Code Section 6801(d).

You will recall that Section 6801(d) provides:

"In every case of joint bidding, the names of all persons, firms, or corporations interested in a particular joint bid shall be specified."

In our opinion the word "firm" as used in Subdivision (d) of Section 6801 includes a partnership, general or limited.

We are cognizant that in most respects a partnership is but a relation with no legal being as distinct from the members who comprise it (20 Cal. Jur., p. 680). Yet it is well settled that for some purposes a partnership may be regarded as an entity. (Deeney v. Hotel and Office Employees' Union, 57 Cal. App. 2d Supp. 1023, 1025; DeMartini v. Industrial Acc. Comm., 90 Cal. App. 2d 139, 149.) We agree with the Legislative Counsel that Section 6801(d) of the Public Resources Code makes a partnership an entity for the purpose of joint bidding herein under consideration.

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Black's Law Dictionary, 4th Edition, pp. 761-762, defines "firm" as follows:

"The work 'firm' is conventional term, applicable only to persons who are members of firm on particular occasion when name is used, and means name, title or style under which a company transacts business, a partnership of two or more persons, or a commercial house, and is synonymous with 'company', 'house', 'partnership', and 'concern'. (Emphasis added.)

In accord: Bouvier's Law Dictionary, Rawle's 3rd Revision, Vol. 2, p. 1232;

See also: Firestone Tire & Rubber Co. v. Webb, 182 S. W. 2d 941, 943, 207 Ark. 820, and authorities therein cited, holding that the work "firm" is used as synonymous with "partnership".

The Uniform Limited Partnership Act (Cal. Corp. Code Section 15501) defines a limited partnership as follows:

"A limited partnership is a partnership formed by two or more persons under the provisions of Section 15502, having as members one or more general partners and one or more limited partners. The limited partners as such shall not be bound by the obligations of the partnership."

Pursuant to Section 15503 of the Corporations Code, a limited partnership may carry on any business which a partnership without limited partners may carry on, except banking and insurance.

Since it appears clear that a partnership is a firm within the meaning of Section 6801(d), and that pursuant to the same section a "joint bid" requires a single bid submitted jointly by more than one firm, it follows that a bid submitted by one partnership, general or limited, is a single bid and not a joint bid as used in that section.

3) In response to your third inquiry, it is our opinion that the following specific language of the Proposed Section 1913, to wit:

"If a general or limited partnership shall join in the making of a joint bid . . . ",

by inference, indicates that a partnership can participate in the submission of a joint bid. However, out of a superabundance of caution, it would be simple to add a single sentence to the beginning of Paragraph 2 of the Proposed Section 1913, which sentence might affirmatively state:

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"A general or a limited partnership may join in the making of a joint bid within the meaning of this Section."

You also posed the following query:

"In your opinion may a member of the petroleum industry safely rely on the proposed regulations, assuming their regular adoption and effectiveness? If the bidder is a partnership, would it be free from any legal doubts or risks if it bids in the partnership name, specifying the names and addresses of only the general partners who are to be responsible to the State for the performance of the terms of the lease for which the bid is submitted?"

From your inquiry it is not clear whether you are regarding a limited partnership solely as a partnership formed pursuant to the provisions of the Uniform Limited Partnership Act which has been adopted in California (Cal. Corp. Code, Sec. 15501 et seq.). Under the aforementioned act, a limited partnership can engage in the oil business (Cal. Corp. Code, Sec. 15503).

Pursuant to Public Resources Code Section 6801, both in the case of separate and joint bidding, all members of a partnership, general or limited, would have to be individually qualified before a lease could be issued. The proposed rule, Section 1913, in the case of a limited partnership only would require disclosure of the names of the general partners but not the names of the special or limited partners. We have concluded that such rule does not violate the provisions of Section 6801(d) of the Public Resources Code by failing to require disclosure of the names of the limited partners.

In reaching this particular conclusion we are not unmindful of the following argument, namely: that the Legislature has prescribed a citizenship qualification, or the alternatives therefor, in Section 6801 of the Public Resources Code; that it is the obligation of the State Lands Commission to insist upon rigid adherence to this requirement; and that the Commission must have the names of all limited partners so as to be able to make its own determination as to citizenship. Nevertheless, in the case of a joint bid we do not believe that the State Lands Commission is required to obtain the names of the limited partners as a matter of law. Rather, we are of the opinion that it is discretionary with the Commission to require the names of the limited partners where a joint bid is involved. Thus, the State Lands Commission in its discretion could adopt a rule requiring the disclosure of the names of limited partners, but the Commission is not required to do so. Further, bids for leases are submitted in the form of leases prepared by the Commission containing such information or provisions as the Commission may prescribe (Sections 6835 and 6873 of the Public Resources Code). Therefore, it would appear that the Commission could require that the names of all of the partners, limited as well as general, be specified in the bid in order to enable the Commission to determine whether such individuals possess the

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qualifications required by Section 6801.

Further, we believe that the utility of the disclosure of names of limited partners is a circumstance to be considered in determining whether such a disclosure is mandatory or discretionary. Section 6801(d) requires only a disclosure of names but is silent as to the nature of the interest. The utility to be served by the disclosure to the State Lands Commission of a list of names, without anything more, is debatable in fact. Yet, we do not believe it improper to take into consideration the limited personnel and facilities of the State Lands Commission to undertake a comprehensive check into the qualifications of each and every limited partner. Moreover, we are aware that at least as to some of the means of qualification under Section 6801, namely:

" . . . citizens of any country, dependency, colony, or province, the laws, customs, and regulations of which permit the grant of similar or like privileges to citizens of the United States" (Public Resources Code Section 6801(a)); and

"Any alien person entitled thereto by virtue of any treaty between the United States and the Union or Country of which the alien person is a citizen or subject" (Public Resources Code Section 6801(c))

a layman bidder may not be qualified to make a proper determination as to matters calling for legal conclusions. Yet it would seem obvious that the mere listing of a name would give the State Lands Commission no indication of the particular manner in which a specific individual was purporting to qualify under Section 6801.

Taking into consideration the statutory purposes it would seem that the State Lands Commission has discretion to set up the practical procedure best calculated to achieve the Legislative objective that only qualified partners, general as well as limited, engage in joint bidding. Presumably, the justification for not requiring the disclosure of the names of limited partners is based upon the fact that such partners take no part in the control of the business (Cal. Corp. Code Section 15507). Nevertheless, if the Commission in its discretion determines not to require disclosure of the names of limited partners it is respectfully suggested that the bidder, after disclosing the names of the general partners, also be required to submit a sworn statement, in the form of an affidavit or certified statement, that each and every limited partner is duly qualified under Section 6801 of the Public Resources Code. If this suggestion is adopted, a formal Commission rule should so provide. Indeed, the Commission rule, in the case of a limited partnership, might permit alternatives, i. e., (a) the names of all general as well as limited partners, or (b) the names of all general partners plus the previously mentioned sworn statement reciting that all limited partners are qualified persons. Such rule might further recite that if alternative (b) relating to the sworn statement is utilized the bidder has the duty to determine the qualifications of the limited partners, vouches for the accuracy of the information therein contained, and assumes any risk attendant upon the submission of misinformation to the Commission. Under such circumstances, if any limited partner was in fact not qualified, the

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bidder might be charged with participation in the misrepresentation. Stated otherwise, the sanction of forfeiture under Section 6802 of the Public Resources Code following a misrepresentation in a sworn statement might be much more effective than a statement of a mere list of names to insure participation only by qualified bidders.

4) As to the procedure required for the adoption of the Proposed Sections 1913 and 1914, the State Lands Commission need only follow the normal statutory procedure for the adoption of rules and regulations set forth in Title 2, Div. 3, Part 1, Chapter 4, Article 4 of the Government Code (Sec. 11420 et seq.).

It is to be noted that Stats. 1957, Chapter 1906 added Section 6110 to the Public Resources Code authorizing an officer or employee to conduct the public hearings required for a rule adoption under Section 11425 of the Government Code. However, this new section does not change the procedure required for such rule adoption.

5. The fifth question submitted by you poses the following query:

"After adoption of the proposed new sections 1913 and 1914, would a bidder be free from risk of violation of law, in not specifying or disclosing in the bid the fact that he has a contractual arrangement with another person, not a partner, whereby such other person may participate to some degree in revenues but not in operations or management?"

We believe the better view to be that a mere contractual relationship between the bidder and a third party whereby said third party in no way participates in operations or management does not require disclosure of that contracting third party's name. This conclusion is based upon the fact that a contrary interpretation would create more stringent requirements for joint bidding under Section 6801(d) than is required for non-joint bidding under Sections 6801(a) and 6801(b) of the Public Resources Code. There appears to be no reasonable basis for requiring the disclosure of the names of those with a mere contractual interest where a joint bid is involved, but not requiring the same disclosure where there are individual or separate bids by persons, firms or corporations. This conclusion seems to be strengthened by reference to Section 6827.1 of the Public Resources Code, which recites:

"Joint bids. Nothing contained in this chapter or any other law shall prevent or prohibit two or more persons who are individually eligible to hold a lease under this chapter from making a joint bid for any lease or leases offered under this chapter."

Thus it would appear that the legislative intent was not to impose a more onerous burden on joint bidders than would exist as to individual bidders. It is also to be noted that, while Section 6801(d) declares that the names of all persons, firms or corporations interested in a particular joint bid

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shall be specified, said section does not expressly require disclosure of the nature of the interest. Nor does Section 6801(d) purport to define the word "interested" used therein. The wide variety of meanings attributed to "interest" is demonstrated by reference to Volume 22 Words and Phrases, pp. 38 et seq.

Although we are of the opinion hereinabove set forth nevertheless we are cognizant that a tenable argument may be made that all contractual interests by a third party must be disclosed in the case of a joint bid. This is based upon:

1. The precise language used in Section 6801(d), to wit:

"In every case of joint bidding, the names of all persons, firms or corporations interested in a particular joint bid shall be specified." (Emphasis added.)

2. Since "interested" as used in Section 6801(d) is not defined therein, it is possible that the California courts might attribute considerable latitude to the term "an interested person" by including within the meaning thereof anyone having a direct and not merely a consequential interest (see Associated Boat Industries v. Marshall, 104 Cal. App. 2d 21, 22-23).

3. The presumption that legislation is constitutional. (Ray v. Parker, 15 Cal. 2d 275, 280.)

In concluding this point, we cannot stress too strongly that this portion of the instant informal opinion is limited to contractual arrangements with third parties which in no way involve management, operation or control on the part of the entity contracting with the bidder. We can conceive of peculiar factual situations involving a contractual arrangement where the non-disclosure of the name of the contractual third party might conceal a subterfuge and allow the perpetration of a fraud on the State in that a party ineligible to hold a lease in his own name could acquire substantially the prerogatives of the State's own lessee.

If it is the intention of the proposed Rule 1913 to dispense with the disclosure of the names of contracting parties with the bidder, only where such contracting party does not participate in management, operation or control, it may be advisable to amend the fourth paragraph of the proposed Rule 1913 as follows:

"All persons, firms or corporations who are to assume a contractual relationship with the State by virtue of a particular joint bid shall be specified in the bid. Others, not participating in management, operation or control under the joint bid, need not be so specified, irrespective of investment or contractual relationship with persons or entities other than the State."

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6) You further solicited our opinion as to whether the proposed Sections 1913 and 1914 would be consistent with statute. If Section 1913 is amended as heretofore suggested by this informal opinion, and if Section 1914 is amended so that it is clear that the forfeiture Section 6802 of the Public Resources Code applies to subsection (d) of 6801 of said Code, then the proposed rules would be consistent with statute.

7) Your seventh question is as follows:

~~"In view of Section 1914, in your opinion is it not correct~~
that the forfeiture provisions of Section 6802 apply only to persons 'not qualified' (under Section 6801, a, b and c), and that such forfeiture provisions would not be applicable to undisclosed persons who are qualified?

It is assumed that Section 6802 of the Public Resources Code, relating to forfeiture of interests held in violation of the chapter, means an interest held by a person who does not possess the necessary qualifications under Section 6801 (a), (b), and (c), and proposed new regulation 1914 so interprets it. Section 6802 was adopted a number of years ago before subsection (d) was added to Section 6801 and appears to have been intended to apply to disqualified persons only. Is this not correct?"

You will recall that Section 6802 of the Public Resources Code provides:

"Forfeiture of interests unlawfully held:
Proceedings: Interests acquired by descent, etc.
Any interest held in violation of this chapter shall be forfeited to the State by appropriate proceedings for that purpose brought by the State in the superior court for the county in which the property or some part thereof is located, except that any ownership or interest forbidden in this chapter which is acquired by descent, will, judgment, or decree may be held for two years and not longer after its acquisition."

In answer to your question, it is our opinion that while the forfeiture provisions of Section 6802 apply to persons "not qualified" under Section 6801, subsections (a), (b) and (c), they are not restricted solely thereto. By its express terminology Section 6802 provides for a forfeiture of any interest held not in violation of a particular section but of an entire chapter (Chap. 3, Part 2, Div. 6 of the Public Resources Code). Consequently, we conclude that any interest held in violation of subsection (d) of Section 6801 would be subject to forfeiture under Section 6802.

It may well be as you suggest that the Legislature may not have intended to make Section 6802 applicable to subdivision (d) of Section 6801 of the Public Resources Code. However, when Section 6801 was amended in 1955 by the addition of subsection (d) thereto, the Legislature must be presumed

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to have been cognizant of the existence of Section 6802. Stated otherwise, it is entirely possible that the Legislative intent was not accomplished by virtue of what the Legislature did in fact. Thus, assuming a failure to disclose a name of a person interested in a particular joint bid where there was an obligation to make such disclosure, we believe that the forfeiture provisions of Section 6802 would be applicable even though the undisclosed person could have qualified had his name been disclosed.

8) Your last request is that we comment on the propriety of the following hypothetical factual situation:

"Certain state lands are opened by the Lands Commission by invitations for petroleum bids. A joint bid is submitted by A, B, C, and D. Bidder A, an individual, bids in his own name. Bidder B is a corporation, its corporate name is disclosed, and B joins with A in the bid. Bidder C is a general partnership (with the names, addresses, qualifications, etc. of the general partners disclosed throughout), and joins in the bid. Bidder D is a limited partnership with two or more general partners, who are disclosed, but with several limited partners, who are not disclosed at the time of the submission of the bid. Bidder D joins with A, B, and C in said bid. X and Y have invested certain sums with Bidder A and have a contractual right to certain of the proceeds and profits received by A. X and Y are not disclosed. All parties, (including the undisclosed limited partners and investors) are qualified under Public Resources Code 6801 (a, b, and c)."

Because of the views hereinabove expressed it is our opinion that whether the names of limited partners of Bidder D partnership must be disclosed depends on the manner in which the State Lands Commission exercises its discretion on this subject. Further, it is our opinion that whether or not the names of X and Y have to be disclosed depends upon the nature of their interest. We believe that if X and Y in no way participate in control, management or operation their names need not be disclosed. Conversely, if X and Y in any way do participate in control, management or operation, their names would have to be revealed.

We hope that this informal opinion satisfactorily answers the various queries submitted by you. Because of the terminology used in Public Resources Code Section 6801, Subdivision (d), we are compelled to concede that there is considerable room for argument in the interpretation of said statutory provision. Nevertheless, the views herein expressed reflect our best judgment on the questions propounded.

If we can be of further service, please do not hesitate to call upon us.

Very truly yours,

EDMUND G. BROWN, Attorney General

By

HOWARD S. GOLDIN,
Deputy Attorney General

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